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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA
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6 UNITED STATES OF AMERICA,
7 Plaintiff,

8 vs.

9
10 DARRYL OWEN WALIZER,
11 Defendant.
12 _____

2:10-CR-00124-PMP-RJJ

ORDER

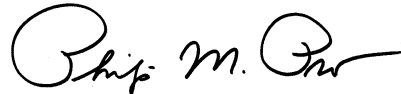
13 Before the Court for consideration is the Government's Motion to Dismiss or
14 Stay 2255 Proceedings Pending Completion of Defendant's Direct Appellate Review
15 (Doc. #160). Given the rather convoluted status of these proceedings, the Court is
16 satisfied that the Government's Motion to Dismiss Defendant Walizer's § 2255 Motion
17 (Doc. #131) should be granted.

18 The Government's Motion (Doc. #160) accurately sets forth the procedural
19 history of this case, except for the fact that this date the Court entered a separate order
20 denying Defendant Walizer's Motion for Documentation (Docs. #156 and 157). The
21 obvious problem presented by Defendant Walizer's pending Motion under § 2255
22 (Doc. #131) is that it is not complete because there remains pending proceedings before
23 the United States Court of Appeals for the Ninth Circuit regarding Defendant Walizer's
24 conviction on Count Two of the Indictment. Given the fractured nature of these
25 proceedings, the Court finds it provident to dismiss Defendant Walizer's instant Motion
26 Under 28 U.S.C. § 2255 (Doc. #131) without prejudice thereby enabling him to file a

1 complete motion for habeas relief following conclusion of the pending appellate
2 proceedings.

3 **IT IS THEREFORE ORDERED** that the Government's Motion to Dismiss
4 Without Prejudice Defendant Walizer's § 2255 Proceedings (Doc. #160) is
5 **GRANTED**, and that Defendant Walizer's Motion to Vacate, Set Aside, or Correct
6 Sentence by a Person in Federal Custody (Doc. 131) is hereby dismissed without
7 prejudice to refile a new § 2255 motion upon completion of all Appellate proceedings
8 in this case.

9 DATED: January 5, 2015.

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13 PHILIP M. PRO
United States District Judge
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